REMARKS

Claims 1-6, 12-13, 16, 19 and 23 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,678,392 issued to Powell (Powell). Claims 17-18 are rejected under 35 U.S.C. §103(a) as being unpatentable based upon Powell in view of U.S. Patent No. 5,335,290 issued to Cullen (Cullen). Claims 7-11, 14-15, 20-22 and 24-28 are allowed provided that their base limitations are included.

DRAWINGS

The objections to the drawings are unclear because the draft person's review document includes very faint markings. To ensure that all of the corrections are properly made, the Applicants respectfully request that the United States Patent and Trademark Office (USPTO) more clearly indicate its objections on Form PTO 948. This will allow the Applicants to efficiently correct the drawings.

REJECTIONS UNDER 35 U.S.C. §102(b) AND 35 U.S.C. 103(a)

Independent claims 1, 18, and 29 relate to authenticating a graph. For example, claim 1 includes receiving an electronic file that has a graphical content. An object level representation of the graphical content is generated. Authentication information is added to the electronic file based on the object level representation of the graphical content. The graphical content contains binary pixel bit values.

The Application distinguishes between graphs and images. Specifically, the Application states, in pertinent part:

> "[G]raphs are more difficult to watermark because of low capacity of additive noise. This is due to the binary nature of graphs. The term "binary nature" relates to the fact that most graphs have one bit per pixel, whereas most images have multiple bits per pixel to indicate varying shades and colors. Binary pixels make it particularly hard to insert watermarks due to the low capacity for perceptual invisible noise. In other words, a minimal alteration of bits in a binary

graph can result in a substantial change in the appearance and content of the graph. Furthermore, the critical information of a graph is often contained at the object level rather than the pixel level. For example, a useful application for document copying and copyright protection is to provide different levels of access to different users. In such a case it would be very desirable to detect alteration of the original document as well as localize the alteration on the object level. For example, it is more important to detect a substantive change in a document, such as "10%" to "70%", than it is to detect an increase in the size of an arrow by one pixel. Thus, the sensitive information in a document is often contained on the object level rather than the pixel level."

Application, p.2.

In contrast to the claimed invention, Powell and Cullen authenticate images, not graphs as in independent claims 1, 18, and 29. Powell, for example, has 249 references to "image" and Cullen has 113 references to "image". Nowhere in either of these references does it discuss content-based authentication of a graph as in independent claims 1, 18 and 29.

In addition, the USPTO asserts that it is "well known" to transmit a graph to a recipient. Applicants respectfully disagree and assert that the USPTO cannot establish that it is "unquestionable" or "indisputable" to transmit a graph to a recipient as in claim 29. The "examiner may take official notice of facts outside of record which are capable of instant and unquestionable demonstration as being 'well known in the art.'" Manual of Patent Examining Procedure, 2144.03 (6th ed. 2004). An element is well known when "the knowledge is of such notorious character that judicial notice can be taken... ." *Id.*, citing *In re Malcom*, 129 F. 2d 529 (CCPA 1942).

The law of judicial notice sheds light on the standard to which the USPTO must satisfy. Judicial notice requires a fact to be "indisputable". WRIGHT & GRAHAM, FEDERAL PRACTICE AND PROCEDURE: EVIDENCE SECTIONS 5001 to 5160, RULE 201 (Supp. 2002).

"Unquestionable" or "indisputable" implies that a fact is <u>always</u> true. An example of a fact that is "unquestionable" or "indisputable" is that June 10th, 2004 occurs on Thursday. In contrast, one skilled in the art has the option of not transmitting a graph to a recipient. Therefore, it is not "unquestionable" or "indisputable" that this will occur. The Applicants respectfully submit that the USPTO withdraw its rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a).

<u>CONCLUSION</u>

Based on all of the foregoing, the Applicant believes that all pending claims are in condition for allowance and notice to such effect is respectfully requested at the earliest possible date. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: _____6/8/04_____   By: _____

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